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Sen. Steven Johnson
Sen. Rose Antich
Sen. Mark Blade
Rep. Tiny Adams, Vice-Chairperson
Rep. Peggy Welch
Rep. Gloria Goeglein
Rep. Matt Whetstone
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Frank Fritch
Thomas Zakrzewski
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COUNTY GOVERNMENT STUDY COMMISSION

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MEETING MINUTES¹

Meeting Date: September 30, 1999
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Becky Skillman, Chairperson; Rep. Tiny Adams, Vice-Chairperson; Rep. Peggy Welch; Rep. Matt Whetstone; Garland Ferrell; Frank Fritch; Thomas Zakrzewski; Vernon Jewell; Douglas Lechner; Gloria Stephani; John Catey; Al Dillon; Jean Paul Lushin; Bill Mansard.

Members Absent: Sen. Steven Johnson; Sen. Rose Antich; Sen. Mark Blade; Rep. Gloria Goeglein.

Senator Becky Skillman, Chairperson of the Commission, called the meeting to order shortly after 1:00 p.m. The meeting's agenda focused on the courts and the office of the county surveyor.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Courts

David Bottorff, Association of Indiana Counties, addressed the Commission and presented the AIC's concerns relating to funding courts, court employees, and the judicial system. Mr. Bottorff noted that the counties' corrections and court costs are increasing and squeezing county budgets. Mr. Bottorff identified six areas that place a burden upon the county budget: (1) the overall cost of the judicial system; (2) state and court mandates; (3) compensation and policy issues relating to court employees; (4) housing juvenile offenders; (5) expensive trials and public defender expenses; and (6) the optional \$5000 county supplement to judges' salaries.

Mr. Bottorff called the Commission's attention to a number of specific examples of the budgetary burdens facing counties. Mr. Bottorff also reported that a number of counties were experiencing problems with judicial mandates regarding court employees. Mr. Bottorff then offered the following suggestions to ease the counties' burdens: (1) full state funding for juvenile offenders housed by the Department of Corrections (DOC); (2) additional appropriations to the public defense fund to account for the greater number of counties participating; (3) establish a similar state fund to assist counties paying for unusually expensive trials; and (4) eliminate the optional \$5000 county supplement to judges' salaries. Finally, Mr. Bottorff suggested that the state should pay more of the court costs incurred by the counties. Mr. Bottorff added that many of the court costs cannot be controlled by the counties.

Mr. Vernon Jewell asked the AIC whether it was feasible for the counties to retain court fees and pay for the judicial system locally. Mr. Travis Worl, AIC, stated that currently the state realizes a \$2,000,000 "profit" from the court fees while the counties face a \$70,000,000 deficit. However, Mr. Worl noted that even if the counties retained all of the court fees there would be a \$2,000,000 shortfall statewide for the counties.

Senator Skillman asked whether allowing county prosecutors to opt for full time status had resulted in savings to the counties. Mr. Bottorff said that the issue had not been studied.

Martha Womacks, Marion County Auditor, presented the Commission with the financial impact to Marion County of housing juvenile offenders at the Boys and Girls Schools. Ms. Womacks noted Marion County will pay a total of nearly \$20,000,000 to the state in 1999 and 2000 to house these offenders. Ms. Womacks requested the state to assume a larger share of the cost of housing the juveniles. Ms. Womacks noted that the county payments do not go directly to the DOC, but, are paid to the state general fund.

Dan Jones, Marion County Auditor's office, stated that the counties' 50% share of the housing costs for juveniles sent to the DOC was intended to be a deterrent to sending juveniles to the DOC. However, Mr. Jones suggested that the deterrent effect has been negated by the sentencing decisions of local judges who are not concerned about the costs.

Representative Adams commented favorably on the impact of the Delaware County Youth Opportunity Center, citing the savings that Delaware County has realized since its opening and the economic impact the center has had upon Delaware County. Rep. Adams suggested that Marion County should take a look at the center and that the Commission should hear from Delaware County Circuit Court Judge Stephen Caldemeyer at its next meeting.

The discussion of court issues concluded with a presentation by the Hon. Mary L. Comer, Hendricks County Superior Court. Judge Comer appeared on behalf of the Indiana

Judges Association (IJA).

Judge Comer noted that the IJA is working with the AIC to bring the organizations together to discuss issues. Judge Comer stated that court funding is the biggest area of conflict. Judge Comer suggested that it is reasonable to move in the direction of some form of state funding and asserted the judiciary's interest in facilitating research of the issues. To that end, Judge Comer presented a 1995 study of the National Center for State Courts outlining the continuum on which the various levels of state court funding fall. (Exhibit 1)

Senator Skillman asked whether there are any constitutional impediments to a state funded court system. Judge Comer responded that there were none to her knowledge and noted that the state currently pays judges' salaries.

Judge Comer added that she would like to see a body deal with the issues in a philosophical setting, always keeping the big picture in mind.

Senator Skillman asked whether individual judges have reservations about the oversight of the General Assembly if the state assumed the responsibility of fully funding the courts and the judicial system.

Judge Comer confirmed that individual judges would have reservations about the General Assembly's oversight and that some would not be ready for the state to fully fund the system today. Judge Comer reiterated that there are a variety of models and that she would like a committee to study the whole package. She suggested that a committee should look at other states and then decide what is best for Indiana.

Judge Comer then took several questions from members of the Commission. The discussion touched on the "definition" of the judicial system, the appropriate tax for funding the judicial system, the role of the circuit court clerk, court fees, and judicial mandates.

When pressed on the question of judicial mandates, Judge Comer asserted that as a third branch of government, the judiciary did indeed possess mandate power. However, she said that she would like to think that the judges use that power sparingly and that she was unaware of any problems. The Commission then asked Mr. Bottorff to recount his earlier testimony on the issue. Mr. Bottorff reported that 15 of 61 counties responding to an AIC survey had experienced a problem with judicial mandates.

County Surveyors

Mr. Doug Lechner, Johnson County Surveyor, presented a history of the office of county surveyor to the Commission. Mr. Lechner surveyed nearly 210 years of history as the office has its origins in the Northwest Ordinance of 1789. In addition to providing a history of the office, Mr. Lechner disputed the notion that the duties of the county surveyor have diminished in recent years. Mr. Lechner asserted that a review of the Indiana Code would show that the surveyor's duties have not diminished.

Mr. Lechner agreed with the proposition that county surveyors should be registered surveyors. Mr. George Van Til, Lake County Surveyor, rose to disagree and set forth the arguments for permitting non-registered surveyors to seek the office.

The Commission discussed the agenda for its October 21, 1999, meeting and Sen. Skillman adjourned the meeting shortly before 3:00 p.m.